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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,203	02/28/2002	Masaaki Orikasa	Q68749	4933
23373	7590	12/17/2003	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. WASHINGTON, DC 20037				LEWIS, RALPH A
ART UNIT		PAPER NUMBER		
3732		8		

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/084,203	ORIKASA, MASAAKI
<b>Examiner</b>	<b>Art Unit</b>	
Ralph A. Lewis	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-4,6,7 and 11-15 is/are rejected.  
7)  Claim(s) 5 and 8-10 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

· Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

· Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.5.  
4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

### **Rejections based on 35 U.S.C. 112, second paragraph**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, there is no clear antecedent basis for “the groove shaped archwire slot.” Additionally, the claim positively claims the archwire as part of the invention (“presses the archwire”) which is contrary to the preamble which indicates that only the bracket is being claimed. The examiner suggests “adapted to press and archwire” or “for pressing an archwire” to make it clear that the combination is not being claimed. Applicant’s attention is directed to *In re Rohrbacher*, 128 USPQ 117, (CCPA 1960) for guidance on the issue.

In claim 14, again it appears as though applicant has claimed the archwire as part of the invention contrary to the preamble.

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6, 7, 12 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Christoff et al (US 6,071,119).

Christoff et al in figures 15-17 disclose an orthodontic bracket having a base 22g, bracket main body 24g, archwire slot 30g, a guiding part 38g (i.e. slot), a cover portion with covering claws 64g, 65g, a band shaped clip 32g, clip holding part 34g for covering archwire slot 30g, and clip locking portion having locking claw 66g. In regard to claim 6, Christoff et al also discloses an embodiment in Figure 3 where the cover portion with covering claw 44 is formed integral with the bracket body 24.

Claims 1-4, 6, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanson (US 5,906,486).

Note base 44, bracket body having slot 26, guiding part 42, cover portion 10, covering claw 60, clip 34 and clip locking claw 48. In regard to claim 13, note the drawing hole 64 and releasing instrument 62.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christoff et al (US 6,071,119) in view of Rosenberg (US 4,712,999).

Christoff et al fail to teach the claimed “arc-shaped cross sectional shape along its width” direction for pressing down on the arch wire as required in claim 14. Rosenberg, however for a very similar bracket having a clip for holding an archwire in places teaches that it is desirable to provide the width section with a curved arch shape 8' in order to “bear on the arch wire, locking it and seating it to its base” and “bring about play when desired” (column 3, lines 16-20). To have provided the Christoff et al clip portion 70g, 34g with an arc curvature in order to lock the arch wire in position or bring about the desired play as taught by Rosenberg would have been obvious to one of ordinary skill in the art in view of the Rosenberg teaching. In regard to claim 2, to the extent that the “presses” limitation is not met by Christoff et al alone, it is met by the present modification taught by Rosenberg.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christoff et al (US 6,071,119).

In the embodiment of Figure 17, Christoff et al disclose an engaging claw formed of stepped slots 64g and 65g having a rectangular profile, rather than the claimed “tapered step portion.” In a further embodiment, Figure 20, Christoff et al, teaches the forming of the engaging claw of taper step projections 64h, 66h. to have formed the stepped claw members 64g and 65g of the Figure 17 embodiment of tapered step projections as taught to be an alternative in

the Figure 20 embodiment would have been obvious to one of ordinary skill in the art in view of the Christoff et al that the claw structure may be alternatively formed.

### **Prior Art**

Applicant's information disclosure statements of 28 February 2002 and 14 August 2002 have been considered an initialed copy enclosed herewith.

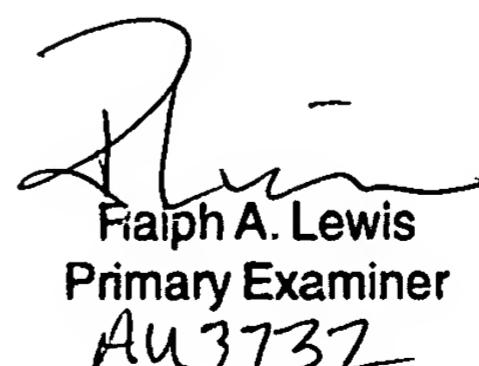
Hanson (US 3,772,787), Hanson (US 4,248,588), Hanson (US 4,492,573), Heiser et al (US 5,562,444), Hanson (US 5,586,882), Voudouris (US 5,630,715) and Voudouris et al (US 6,368,105) are made of record.

### **Allowable Subject Matter**

Claims 5 and 8-10 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the claims from which they depend.

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number (703) 308-0770. Fax (703) 872-9306. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (703) 308-2582.

R.Lewis  
December 11, 2003



Ralph A. Lewis  
Primary Examiner  
AU 3732